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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
11 AT TACOMA

12 REV. RUSSELL J. YOUNG,

13 Plaintiff,

14 v.

15 SUSAN I. BAUR, *et al.*,

16 Defendants.

Case No. C05-5565RBL/KLS

ORDER DENYING PLAINTIFF'S
MOTION FOR DEFAULT
JUDGMENT AND FOR
APPOINTMENT OF COUNSEL

17 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge
18 pursuant to 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. Before the court is plaintiff's motion
19 entitled "motion for default judgement and/or motion for appointment of counsel." (Dkt. #25). Plaintiff
20 seeks a judgment in his favor based on an alleged failure of Defendant Susan I. Baur to respond to
21 discovery requests purportedly sent to her in March of 2006.

22 1. Motion to Compel Discovery

23 Plaintiff was granted *in forma pauperis* status on February 1, 2006. (Dkt. # 16). Defendant
24 Baur was served with the complaint in this action on April 20, 2006 (Dkt. # 24) and filed an answer on
25 May 15, 2006. (Dkt. # 27). This court's scheduling order governing pretrial discovery, dispositive
26 motions and the parties' joint status report was issued on May 15, 2006. (Dkt. # 28). Plaintiff's motion
27 for default judgment was filed on May 4, 2006. (Dkt. # 25).

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Plaintiff does not indicate he has met and conferred with opposing counsel prior to filing this motion as required by Local Rule 37 (a) (2). The motion is therefore **DENIED WITHOUT PREJUDICE**. Plaintiff should review Rules 26 to 37 of the Federal Rules of Civil Procedure and Local Rules 26 to 37, governing depositions and discovery.

2. Motion for Appointment of Counsel

6 Although Plaintiff makes reference to a motion for the appointment counsel in the case caption of
7 his motion, no such motion is included. The court finds that the motion should be **DENIED**.

⁸ There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.

9 Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding
10 *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon,
11 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984);
12 Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires
13 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
14 articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d
15 at 1331.

Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. Moreover, Plaintiff has not demonstrated a likelihood of success on the merits of his claims or exceptional circumstances warranting appointment of counsel.

19 Accordingly, plaintiff's motions for default judgment and to appoint counsel (Dkt. # 25) are
20 **DENIED.**

21 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

DATED this 24th day of May, 2006.

✓ 21

Karen L. Strombom
Karen L. Strombom
United States Magistrate Judge

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